

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RAMON VASQUEZ, :
Plaintiff, :
v. : Case No. 3:19-cv-40-KRG-KAP
TREVOR WINGARD, Regional Deputy :
Secretary, et al. :
Defendants :

Report and Recommendation

Recommendation

I recommend that the Motion for Reconsideration/Alter or Amend Judgment with Leave to Amend, ECF no. 35, be denied.

Report

Plaintiff's civil rights complaint was dismissed for failure to state a claim on May 13, 2020. ECF no. 29. He now files a motion pursuant to Fed.R.Civ.P. 59(e). A Rule 59 motion should show new relevant evidence, a clear error of law, or a manifest injustice. See Wiest v. Lynch, 710 F.3d 121, 128 (3d Cir.2013) (discussing three purposes of motion under Fed.R.Civ.P. 59(e)). A Rule 59 motion is not a substitute for an appeal.

In the motion and the accompanying brief, ECF no. 36, plaintiff re-alleges the facts that were considered in the screening of his case. Plaintiff specifically points to his grievance of March 15, 2017, the original complaint's Exhibit 25 as his evidence that he did more than provide the prison officials with vague accusations of a fear of his cellmate. However, Exhibit

25 asserts only, "I am advising you that a substantial risk is involved if I'm forced to go back on B Unit to my safety and safety of others." ECF no. 1-2 at 77. This evidence, already considered in the prior screening, did not then and does not now constitute support for plaintiff's claim.

Because plaintiff has failed to provide any new evidence, the motion should be denied.

Pursuant to 28 U.S.C. § 636(b)(1), the plaintiff is given notice that he has fourteen days to file written objections to this Report and Recommendation.

DATE:

12 June 2020



Keith A. Pesto,
United States Magistrate Judge

Notice to counsel by ECF by U.S. Mail to:

Ramon Vasquez #09-6214
Berks County Jail System
1287 County Welfare Road
Leesport, PA 19533